

**THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD**

In the Matter of:)	
)	
Harris Teeter, Inc.)	
t/a Harris Teeter)	
)	License No. 73993
)	Order No. 2010-491
<i>Request for an Advisory Opinion</i>)	
at premises)	
1631 Kalorama Road, N.W.)	
Washington, D.C. 20009)	

BEFORE: Charles Brodsky, Chairperson
Mital M. Gandhi, Member
Nick Alberti, Member
Donald Brooks, Member
Herman Jones, Member
Calvin Nophlin, Member
Mike Silverstein, Member

ADVISORY OPINION

Harris Teeter, Inc., t/a Harris Teeter, holds a Retailer's Class B License at premises 1631 Kalorama Road, N.W., Washington, D.C. 20009. Harris Teeter, Inc., t/a Harris Teeter, asked the Board to determine the date the Board approved the Voluntary Agreement it entered into with Advisory Neighborhood Commission (ANC) 1C. Counsel for Harris Teeter, Inc., t/a Harris Teeter, contends that this date is not apparent from the record and that the Board should find that the Voluntary Agreement between his client and ANC 1C was approved on October 11, 2006. In response, the Board offers the following advisory opinion:

FINDINGS OF FACT

1. The Voluntary Agreement submitted to the Board by Harris Teeter, Inc., t/a Harris Teeter, and ANC 1C is dated October 1, 2006.
2. On February 27, 2008, the Board issued Board Order No. 2008-087, which stated in the Conclusions of Law that:

The October 11, 2006 voluntary agreement is a well thought out detailed four-page agreement that consist of 31 terms that ANC 1C *is asking the Board to adopt*. The Board finds these terms, including restrictions on the sale of single containers of beer to be reasonable. As such the Board finds the recommendations of ANC 1C contained in the agreement to be entitled to great weight and *is adopting them as conditions on the Applicant's license*. Board Order No. 2008-087, para 31 (emphasis added).

Furthermore, in its Order, the Board stated that: "The Applicant shall be required to follow the terms of its voluntary agreement with ANC 1C, dated October 11, 2006." Board Order No. 2008-087, Order.

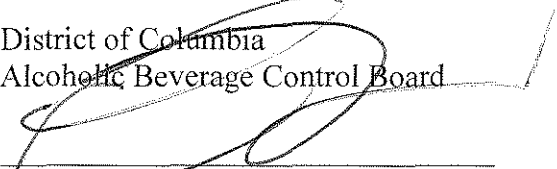
CONCLUSIONS OF LAW

3. After reviewing the record, it is overwhelmingly clear that the Voluntary Agreement signed by Harris Teeter, Inc., t/a Harris Teeter, and ANC 1C was approved on February 27, 2008, and not, as counsel contends, on October 11, 2006. Under the law, voluntary agreements are not effective until approved by the Board. D.C. Code § 25-446(b)-(c) (2004). Upon approval, "[t]he Board shall incorporate the text of the voluntary agreement in its order and the voluntary agreement shall be enforceable by the Board." In Board Order No. 2008-087, the Board stated in its Conclusion of Law that the Voluntary Agreement signed by Harris Teeter, Inc., t/a Harris Teeter, and ANC 1C had not yet been adopted. Furthermore, Board Order No. 2008-087 incorporated the Voluntary Agreement in its Order. Therefore, the Board finds that the Voluntary Agreement signed by ANC 1C and Harris Teeter, Inc., t/a Harris Teeter, was approved on February 27, 2008, in Board Order No. 2008-087.

ADVISORY OPINION

Based on the foregoing reasons, as well as all of the information submitted to the Board with respect to this matter, it is the **ADVISORY OPINION** of the Board on this 29th day of September 2010, that the Voluntary Agreement entered into by Harris Teeter, Inc., t/a Harris Teeter, and ANC 1C was approved on February 27th, 2008, pursuant to D.C. Code § 25-446.

District of Columbia
Alcoholic Beverage Control Board



Charles Brodsky, Chairperson



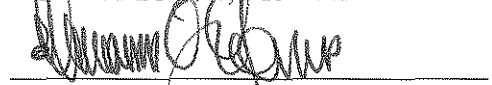
Mital M. Gandhi, Member



Nick Alberti, Member



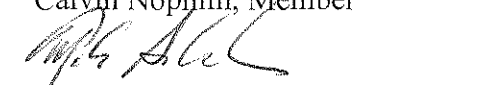
Donald Brooks, Member



Herman Jones, Member



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